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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,200	01/14/2002	Takashi Koshimizu	218100US2	6096

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ALEXANDRIA, VA 22314

EXAMINER

VU, VIET DUY

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/043,200	Applicant(s) KOSHIMIZU ET AL.	
	Examiner Viet Vu	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,4,5 and 7-12 is/are rejected.
7) ☒ Claim(s) 3 and 6 is/are objected to.
8) ☒ Claim(s) 13-17 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/05; 4/05; 12/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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Non-Art Rejections:

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following language lacks proper antecedent basis:

In claim 7, line 7, "said communication node".

Art Rejections:

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

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Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaudhri et al, U.S. pat. Appl. Pub. No. 2002/0116444, in view of Romrell, U.S. pat. Appl. Pub. No. 2001/0002900.

Per claims 1 and 4, Chaudhri discloses a system and method for delivering content to users including mobile users (par 8) comprising:

- a) identifying a first cache node storing information content in a first delivery channel established in response to a delivery request for original information from a mobile terminal (see page 6, par. 84-92),
- b) identifying a second cache node in a first delivery channel in response to an occurred error while the mobile terminal is receiving cache information from the first cache node through the first delivery channel (page 8, par. 105),
- c) sending by the first cache node to the second cache node a first signal indicating that the data delivery has been rerouted to the second cache node, and

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d) delivering the cache information in response to the first signal from the second cache node to the mobile terminal via a second communication channel (see page 8, par. 108).

Chaudhri does not teach identifying a portion of the cache information that has been delivered to the mobile terminal by the first cache node. Romrell teaches a system for monitoring network contents downloaded to a user terminal to allow the system to resume the download (after a network error) without having to restart the download from the beginning (see Romrell in page 1, par. 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Chaudhri with Romrell's teaching because it would have allowed reducing network download time in the event of a network transmission error (see Romrell in page 1, par. 5).

Per claims 2 and 5, Chaudhri teaches dynamically rerouting user's request to other cache nodes (i.e., second and third nodes) based upon network performance conditions (see Chaudhri in page 8, par. 108).

Per claim 7, Chaudhri teaches delivering data to user via different conventional communication networks including wireless networks where the user can move from one location to another (see Chaudhri in page 1, par. 8).

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Claims 8-12 are similar in scope as that of claims 1-2 and 4-5.

Allowable Subject Matter:

6. Claims 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion:

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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8/8/05

VIET D. VU
PRIMARY EXAMINER